



# **Nevada State Board of Medical Examiners**

## **\* \* \* MINUTES \* \* \***

### **OPEN SESSION BOARD MEETING**

**Held in the Conference Room at the offices of the  
Nevada State Board of Medical Examiners**

**1105 Terminal Way, Suite 301, Reno, NV 89502**

**and videoconferenced to**

**the conference room of the Nevada State Board of Dental Examiners**

**6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118**

***FRIDAY, JUNE 9, 2006 – 8:30 a.m.***

***and***

***SATURDAY, JUNE 10, 2006 – 8:30 a.m.***

#### ***Board Members Present***

Javaid Anwar, M.D., President

Sohail U. Anjum, M.D., Vice President

Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer

Marlene J. Kirch

Charles N. Held, M.D.

Jean Stoess, M.A.

Cindy Lamerson, M.D.

S. Daniel McBride, M.D.

Benjamin J. Rodriguez, M.D.

#### ***Staff Present***

Drennan A. Clark, J.D., Executive Director/Special Counsel

Laurie L. Munson, Deputy Executive Director/  
Information Systems Administrator/Chief of Administration

Bonnie S. Brand, J.D., General Counsel

Edward O. Cousineau, J.D., Deputy General Counsel

Lyn E. Beggs, J.D., Deputy General Counsel

Robert J. Barnett, M.D., Medical Reviewer

Jerry C. Calvanese, M.D., Medical Reviewer

Lynnette L. Daniels, Chief of Licensing

Douglas C. Cooper, Chief of Investigations

Trent S. Hiett, Investigator (in Las Vegas)

#### ***Also Present***

Dianna Hegeduis, J.D., Chief Deputy Attorney General

Roger M. Belcourt, M.D., President, Nevada Health Professionals Assistance Foundation

Janet Wheble, P.A.-C, Physician Assistant Advisory Committee Member

Steven E. Kessinger, C.R.T., Practitioner of Respiratory Care Committee Member

**FRIDAY, JUNE 9, 2006**

Agenda Item 1

**CALL TO ORDER AND ANNOUNCEMENTS**

- Javaid Anwar, M.D., President

The meeting was called to order by President Javaid Anwar, M.D., at 8:30 a.m.

Ms. Hegeduis took roll call, and all Board Members were present.

Agenda Item 2

**APPROVAL OF MINUTES**

- March 17 & 18, 2006 Board Meeting – Open/Closed Sessions

Dr. Baepler moved to approve the Minutes of the March 17 & 18, 2006 Board Meeting - Open/Closed Sessions. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 3

**PERSONNEL**

**Closed Session**

- Annual Review and Discussion of Professional Competency of Staff
  - Sohail U. Anjum, M.D., Vice-President and Chairman of the Internal Affairs Committee;
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

**Open Session**

- Set Staff Compensation
  - Sohail U. Anjum, M.D., Vice-President and Chairman of the Internal Affairs Committee;
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Annual Review and Discussion of Professional Competency of Staff**

**- Set Staff Compensation**

Mrs. Kirch moved to go into Closed Session to discuss the professional competency of Board staff. Ms. Stoess seconded the motion, and it passed.

Agenda Item 4

**REPORT ON STATUS OF THE BOARD'S PUBLIC SERVICE ANNOUNCEMENT PROGRAM THROUGH NEVADA BROADCASTERS ASSOCIATION**

- Robert D. Fisher, President and CEO – Nevada Broadcasters Association

Mr. Fisher and DeShawna Whitmore, Production Director for Nevada Broadcasters Association, played the television and radio advertisements Nevada Broadcasters Association is currently running on behalf of the Board and proposed new television and radio advertisements.

Discussion ensued concerning the content and focus of the new advertisements. Ms. Whitmore stated that all of the proposed advertisements were created in both English and Spanish versions. Dr. Baepler suggested that the Board's Public Relations Committee work with Nevada Broadcasters on the scripts for the new advertisements.

Mr. Fisher stated that during the first three months of this year, the Board paid \$5,000 per month for advertising and received \$340,000 worth of airtime. During that time, 3,521 spots were run on behalf of the Board on television and radio. The Board has been paying \$5,000 per month for a number of years and is currently the only client that is still paying that amount. The current contract expires in September 2006 and Nevada Broadcasters will be increasing the monthly contract rate to that which other state agencies and other clients are paying, which is \$7,500 per month.

Ms. Stoess moved that the Board approve a contract with Nevada Broadcasters Association for \$7,500 per month, contingent upon the Board's approval of the new advertisements.

Ms. Stoess then withdrew her motion, since the time for consideration of the contract with Nevada Broadcasters Association, as scheduled on the agenda, had not yet arrived.

Mr. Fisher explained the benefits the Board receives as a result of advertising, the foremost of which is awareness on the part of the public as to the purpose and work of the Board.

Mr. Fisher said there are over 20 other state agencies who currently advertise with Nevada Broadcasters Association, but the Medical Board is the only state healthcare-related entity that advertises with them.

Dr. McBride questioned whether the money might be better spent in adding additional staff to the Board to take care of the heavy workload.

Discussion ensued concerning the cost of advertising and the value received. Mr. Fisher stated the ads are run on local networks, and that the Board is receiving one million dollars worth of airplay annually. He said advertising in essence serves the purpose of a public information officer. Dr. Baepler stated that during the 2003 session, the Legislature put pressure on the Board to hire a full-time public relations person, and to a degree this type of program takes the pressure off the Board to do so. A public relations person would not be as effective as Nevada Broadcasters in placing ads in radio and television nor would he or she have the capability to produce them. Discussion ensued concerning whether it was appropriate to spend the money on advertising as opposed to spending it on other items the Board needs.

Agenda Item 5

**CONSIDERATION OF RENEWAL OF ANNUAL CONTRACT WITH NEVADA BROADCASTERS ASSOCIATION FOR THE BOARD'S PUBLIC SERVICE ANNOUNCEMENT PROGRAM FOR OCTOBER 1, 2006 THROUGH SEPTEMBER 30, 2007**

- Robert D. Fisher, President and CEO – Nevada Broadcasters Association

Ms. Stoess moved that the Board approve the contract with Nevada Broadcasters Association for one year, at \$7,500 per month, with \$7,500 for production costs, and that the Board's Public Relations Committee work with Nevada Broadcasters Association on new scripts, which would then be provided to the Executive Committee for approval. Mrs. Kirch seconded the motion.

Discussion ensued concerning the effectiveness and benefits of advertising. Dr. Baepler stated that the budget would accommodate the contract.

A vote was taken on the motion, and it passed, with Dr. Anjum, Mrs. Kirch, Ms. Stoess, Dr. Rodriguez and the Chair voting in favor of the motion, and Dr. Baepler, Dr. Held, Dr. Lamerson and Dr. McBride voting against the motion.

#### Agenda Item 6

### **REQUEST FOR DIRECTION AS TO DISTRIBUTION OF BOARD BROCHURES AND POSTERS**

- Drennan A. Clark, J.D., Executive Director/Special Counsel

Mr. Clark stated that the Board had previously given staff authority to send copies of its brochures to each of its physician licensees, which staff is in the process of doing. Staff is now seeking the Board's approval to put a copy of the brochure on the Board's website and asking the Board for its suggestions and recommendations as to how to further disseminate the brochures and posters.

Ms. Stoess stated she had submitted a list of agencies and organizations that should receive them, and would provide an additional copy to staff. These include hospitals and public libraries, so as to reach the public as much as possible.

Mr. Clark said that a copy of the brochure is also provided to every individual who requests a complaint form from the Board.

Ms. Stoess told the Board that at the FSMB Annual Meeting in Boston in April, she and Ms. Munson participated in a poster session at which they had copies of the Board's posters and brochures available. They received very positive feedback from the other states, many of which have not yet done something like this and thought it was a good idea.

#### Agenda Item 15

### **REPORTS**

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Executive Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Steven E. Kessinger, C.R.T., Advisory Committee Member
  - Consideration of Request for Approval of Appointment of Replacement Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A
  - Sohail U. Anjum, M.D., Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations
  - Status of Investigative Caseload
- Nevada State Medical Association Liaison Report - Cindy Lamerson, M.D., Board Member; Lawrence P. Matheis, Executive Director, Nevada State Medical Association
- Clark County Medical Society Liaison Report - Benjamin J. Rodriguez, M.D., Board Member; Weldon Havins, M.D., J.D., CEO and Special Counsel, Clark County Medical Society

- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member;  
Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
  - Status of Finances
- Federation of State Medical Boards of the United States, Inc.'s 2006 Annual Meeting, April 20-22, 2006,  
Boston, MA - Javaid Anwar, M.D., President; Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer;  
Jean Stoess, M.A., Board Member; S. Daniel McBride, M.D., Board Member;  
Benjamin J. Rodriguez, M.D., Board Member

**- Diversion Program: Quarterly Report**

Roger M. Belcourt, M.D., President of the Nevada Health Professionals Assistance Foundation, told the Board the Diversion Program is currently monitoring 23 participants from northern Nevada, 54 from southern Nevada, and 3 from out of state. They have about 35 physicians who are not in the program, but are regularly attending the program's caduceus meetings. They have instituted a new urine monitoring system, which involves generated random selection and utilizes NIDA-certified draw stations as well as observed specimens. This allows them to more heavily monitor the participants. This is in concert with what most of the progressive states are doing, and about 58% of their participants are enrolled in the new program. The Program is currently solvent and has a four-month operating reserve. There are still four lawsuits pending against the Foundation, and they are looking for some type of state protection against these types of lawsuits in the future. They have received support from the local medical societies for some type of legislative action in this regard, and are in the process of investigating the best way to go about it.

Discussion ensued concerning the funding of the Foundation. Currently, the Board is providing approximately 50% of the Foundation's funding and the remainder comes from fees and other donations.

Agenda Item 7

**CONSIDERATION OF ADOPTION OF AMENDMENTS TO NEVADA ADMINISTRATIVE CODE CHAPTER 630**

- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, Specify Grounds for Denial of Licensure to Physician Assistant Applicants
- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Require Licensees and Applicants to Sign All Notifications, Applications and Communications They Have With the Board
- Consideration of Amendment to Nevada Administrative Code Chapter 630, Authorizing Physician Assistants to Act Under the Supervision of Any Physician at the Scene of an Accident or a Natural or Manmade Disaster When Rendering Emergency Care
  - Edward O. Cousineau, J.D., Deputy General Counsel
- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Provide a Procedure for Licensure of Eminent Physicians
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Specify Grounds for Denial of Licensure to Physician Assistant Applicants**

Mr. Cousineau stated that in March he received authority from the Board to proceed with adoption of an amendment to the Nevada Administrative Code to specify grounds for denial of licensure to physician assistants similar to those in place for physicians and respiratory therapists. The language included in the Board's packet, which was proposed by LCB following discussions between Mr. Cousineau and LCB staff, meets the intent of the regulation as requested by the Board.

Ms. Stoess moved to adopt the regulation. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Require Licensees and Applicants to Sign All Notifications, Applications and Communications They Have With the Board**

**- Consideration of Amendment to Nevada Administrative Code Chapter 630, Authorizing Physician Assistants to Act Under the Supervision of Any Physician at the Scene of an Accident or a Natural or Manmade Disaster When Rendering Emergency Care**

**- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Provide a Procedure for Licensure of Eminent Physicians**

Mr. Cousineau requested authority to begin the process for adoption of the following proposed regulations: (1) requiring licensees and applicants to sign all applications and other documents they submit to the Board; (2) insulating from liability physician assistants who act under the supervision of any physician when rendering emergency care; and (3) providing a procedure for licensure of eminent physicians.

Mr. Clark stated one reason staff wants to require licensees to sign their own documents stems from a situation that occurred where two licensees got into a disagreement about something and one of them, being the office landlord of the other, submitted a written change of address for the other, who was unaware of it. This amendment would help to ensure the information the Board receives from its licensees and applicants is, in fact, received from the person named therein.

Dr. Baepler stated the Board has also received responses to complaints from attorneys rather than from the physicians to whom they were addressed and they would like to have the ability to reject those and require the physicians to sign them.

Mr. Clark stated that the second amendment seeks authorization to allow physician assistants to render emergency care at the scene of an accident or at the scene of a natural or manmade disaster under supervision of any licensed M.D., if they cannot find their supervising physician at that time, and protects them from liability.

Dr. Baepler moved to authorize Mr. Cousineau to proceed with drafting and adoption of the regulation requiring applicants and licensees to sign all documents submitted to the Board. Mrs. Kirch seconded the motion.

Discussion ensued concerning how the amendment would apply to documents submitted online, to responses to complaints, and to other documents submitted to the Board.

A vote was taken on the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to authorize Mr. Cousineau to proceed with drafting and adoption of the regulation authorizing physician assistants to render emergency care under the supervision of any physician at the scene of an accident or at the scene of a natural or manmade disaster. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark stated the last amendment concerns the procedure for application for a special restricted license for eminent physicians to work at either the University of Nevada Medical School or one of Nevada's medical centers of excellence. The Board is seeking a statute as part of its legislative initiatives for the 2007 session that would allow the Board to grant a license to an eminent, foreign-trained physician to work at these facilities who might not otherwise qualify for licensure in Nevada. This proposed regulation lists the steps the physician and his or her hiring entity would be required to follow in order for the physician to qualify for that particular license type, if the Board receives statutory authority from the Legislature to grant such a license.

Discussion ensued regarding the definition of a center of excellence and who would make the determination that a facility is a center of excellence. Mr. Clark stated that currently the Board considers centers of excellence those facilities that have been identified as such by the Governor's office.

The language of the proposed regulation was discussed. Mr. Clark stated he would amend the proposed regulation concerning the definition of an eminent physician and bring it back to the Board for approval. The revised language will then go through the workshop and hearing process before coming back to the Board for final approval.

Dr. Baepler moved to authorize staff to proceed with drafting and adoption of the regulation regarding licensure of eminent physicians, subject to possible amendments the Board may approve. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 8

**CONSIDERATION OF REQUEST BY KELLY TESTOLIN, ESQ., OF THE LAW FIRM OF HALE LANE PEEK DENNISON AND HOWARD, FOR OPINION FROM THE BOARD REGARDING DELEGATION OF REFRACTION TO A NON-PHYSICIAN**

- Kelly Testolin, Esq., Hale Lane Peek Dennison and Howard

Mr. Testolin explained that what his client is contemplating is having a number of offices in the state, where a physician assistant or technician would perform refractions without direct

supervision of the physician. It is a common practice for these procedures to be done by medical assistants in doctors offices, but in most cases the doctor is there giving direct supervision. What he is seeking is an opinion that it would be acceptable for a physician assistant or medical assistant to perform these procedures without direct supervision by the physician as long as the physician is confirming the prescription arrived at through the refraction.

Dr. Anwar stated that pursuant to statute, the responsibilities of a supervising physician and the physician assistant are spelled out and immediate physical presence is not required of a supervising physician.

Mr. Testolin stated his client is an ophthalmologist and uses assistants in the office to perform refractions.

Dr. Anwar stated the Board regulates physician assistants but does not regulate the practice of technicians or medical assistants, who are not licensed and whose duties are not defined.

Dr. Baepler stated the medical assistant is not licensed and is not defined.

Mrs. Kirch stated the authority is already there for physician assistants and the Board is not going to give him a written opinion because it is already contained in the statutes and regulations.

Dr. Baepler stated the minutes of the meeting would reflect that the Board advised him a physician assistant could perform the procedure without the physician being physically present and that would be proper scope of practice for a physician assistant.

Mr. Clark added that it would only be proper if the physician is assured the physician assistant has been properly trained to perform the procedure.

Dr. McBride asked whether he had a statement from the American Board of Ophthalmology regarding the practice, and Mr. Testolin stated he did not. Dr. McBride stated that the Board could not render an opinion as to medical assistants because they are not licensees of the Board and the Board does not regulate them.

Weldon Havins, M.D., J.D., CEO and Special Counsel of the Clark County Medical Society, stated that when medical assistants are involved as technicians, they work under direct supervision of an ophthalmologist in an ophthalmologist's office, and do not sign prescriptions, so if a medical assistant were to perform the refraction and sign a prescription independent of an ophthalmologist, it would be beyond the scope of their practice and could be considered practicing medicine without a license. A physician assistant is an entirely different matter. They are licensees of the Board, supervised by physicians who are responsible for them, they are trained, and there is nothing that precludes a physician assistant from practicing in an independent location and signing a prescription. That practice would seem to be clearly within the authority of the statutes and regulations of the Board.

Mr. Testolin stated the opinion he is requesting concerns a medical assistant performing the refraction but not prescribing. The refraction result would be faxed to the ophthalmologist,

who would then make the prescription. He is not proposing that a medical assistant make a prescription, merely that he or she perform the refraction and communicate the results to the physician in another location, who would then make the prescription.

Dr. Havins said he had never heard of a medical assistant anywhere in the country operating independent of an ophthalmologist.

Dr. Barnet stated what Mr. Testolin is proposing is inappropriate for what the practice has been.

Mr. Testolin thanked the Board for its consideration and stated their comments had been helpful.

#### Agenda Item 9

### **DISCUSSION OF LEGISLATIVE INITIATIVES FOR 2007 LEGISLATIVE SESSION**

- Drennan A. Clark, J.D., Executive Director/Special Counsel

Mr. Clark addressed the Board concerning proposed initiatives for the 2007 legislative session. The first two would add a requirement, under both NRS 630.254(1) and NRS 630.255, that active and inactive licensees notify the Board of a change of address in writing, and if they fail to do so, the fine be increased from \$100 to \$250. The rationale is that there are too many of these violations of the Medical Practice Act for the Board to prosecute, and it is hoped that an increased fine will bring it to the attention of licensees and thereby increase compliance. Discussion ensued concerning whether licensees are aware of the requirement and ways to ensure that they are.

Mrs. Kirch moved that the Board approve the first two initiatives. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark explained that currently, licensees are required to report to the Board revocation, suspension, modification or limitation of their licenses by other jurisdictions. The third initiative would add to NRS 630.301(3), a requirement that licensees also report to the Board other types of disciplinary action taken against their licenses.

Mrs. Kirch moved that the Board approve the third initiative. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark stated it has come to the attention of the Board that individuals who are not Nevada-licensed physicians may be performing autopsies in the state, and the fourth initiative would add the performance of autopsies to the definition of the practice of medicine in NRS 630.020(1).

Dr. Baepler stated that an M.D. who performs an autopsy could commit malpractice, as it were, by missing a cause of death, and if the physician is not licensed in Nevada, the Board would have no jurisdiction over the physician.

Dr. Barnet added that it might be appropriate to add retrieval of organs to the definition as well. Discussion ensued concerning the difference between performing autopsies and organ retrieval. Performing an autopsy involves rendering a medical opinion, whereas organ retrieval does not.

Discussion ensued concerning the number of states that require those who perform autopsies to be licensed in that state and regarding out-of-state physicians, unlicensed in Nevada, performing private autopsies at mortuaries in Las Vegas. The statute would preclude out-of-state physicians and other unlicensed individuals from performing autopsies in the state.

Dr. Baepler moved that the Board approve the fourth initiative. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark explained that the fifth initiative would amend NRS 630.306(5), (6) and (11), to include the following as additional grounds for disciplinary action or denying licensure: (1) performing services which the licensee knows or has reason to know that he is not trained to perform; (2) performing procedures or prescribing therapies, including those which are considered experimental, without first obtaining informed consent of the patient or his family; and (3) failing to report in writing within 30 days any type of disciplinary action taken by another jurisdiction.

Discussion ensued concerning the language of the proposed amendments. Ms. Beggs explained that the amendment to subsection (6) was to require physicians to obtain informed consent for procedures that are not considered experimental, and would not make any change to the language regarding experimental procedures.

With respect to subsection (5), Dr. Barnet stated there may be times when a physician may encounter a situation where performing a particular procedure would be appropriate even when the physician hasn't been specifically trained to do so. Dr. McBride suggested changing the language to include performing services that are not within the scope of the physician's training, rather than performing services that a physician is not trained to perform. Mr. Clark suggested the following as the new language for subsection (5): "Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent or are beyond the scope of his training to perform."

Dr. Rodriguez moved that the Board approve the fifth initiative, as amended. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark said that the sixth initiative would amend NRS 630.364(2) to extend the statutory immunity from civil liability that is afforded to the Board and its employees to specifically include the Board's peer reviewers and contractors who provide diversion program services to the Board's licensees.

Discussion ensued concerning whom the new language would include. Mr. Clark stated he would add employees and volunteers of the diversion program.

Dr. Held moved that the Board approve the sixth initiative, as amended. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Ms. Beggs explained that there currently is no definition of the term, "informed consent" under Chapter 630 of the Nevada Revised Statutes. The proposed definition is language which is identical to the definition of informed consent under Chapter 449, which deals with a particular

medical procedure. She used this language so there would be no conflict with the definition under Chapter 630 and that of another health-related statute.

Ms. Beggs stated peer reviewers have been citing lack of good informed consent as a basis for findings of malpractice and there is currently nothing in the statutes or regulations that allows the Board to go forward on a failure to obtain informed consent. Since the Board is contemplating going forward with a proposed amendment to NRS 630.306(6), it seems prudent that there be a definition of informed consent under Chapter 630. Discussion ensued concerning the wording of the proposed definition. Dr. Havins stated a definition of informed consent is already contained in NRS 41A.110 and it defines what is necessary for informed consent, and if this new language were adopted there would be conflicting statutes on informed consent since the language differs. Ms. Beggs stated that NRS 41A.110 does not give the Board the authority to go forward on a disciplinary matter if it is felt informed consent was not obtained, and therefore a definition of informed consent needs to be included within Chapter 630. She suggested that alternatively, the Board could consider adopting a definition of informed consent through the regulations rather than the statutes.

Dr. Baepler concurred that it would be more appropriate to add the definition through a regulation amendment rather than a statutory amendment.

Mr. Clark said he would delete the seventh initiative from the list and the Board could pursue adopting a definition through amendment of the regulations.

#### Agenda Item 15 **(CONTINUED)**

##### **REPORTS**

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Executive Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Steven E. Kessinger, C.R.T., Advisory Committee Member
  - Consideration of Request for Approval of Appointment of Replacement Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A
  - Sohail U. Anjum, M.D., Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations
  - Status of Investigative Caseload
- Nevada State Medical Association Liaison Report - Cindy Lamerson, M.D., Board Member; Lawrence P. Matheis, Executive Director, Nevada State Medical Association
- Clark County Medical Society Liaison Report - Benjamin J. Rodriguez, M.D., Board Member; Weldon Havins, M.D., J.D., CEO and Special Counsel, Clark County Medical Society
- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member; Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
  - Status of Finances
- Federation of State Medical Boards of the United States, Inc.'s 2006 Annual Meeting, April 20-22, 2006, Boston, MA - Javaid Anwar, M.D., President; Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer; Jean Stoess, M.A., Board Member; S. Daniel McBride, M.D., Board Member; Benjamin J. Rodriguez, M.D., Board Member

**- Practitioner of Respiratory Care Advisory Committee**

Steven E. Kessinger, C.R.T. stated there are no new issues before the Committee at this time. There is one on-going issue, which he brought up at the last Board meeting, concerning a shortage of respiratory therapists in the state. One of the hospitals in Las Vegas was considering having nurses perform respiratory therapy because of a lack of respiratory therapists in that area. Since then, he has heard that one of the hospitals in the Reno area has a shortage of respiratory therapists as well, and they are utilizing nurses to do their care. They are having a difficult time staffing all of the hospitals all of the time, and they are not quite sure what to do about it.

Agenda Item 9 **(CONTINUED)**

**DISCUSSION OF LEGISLATIVE INITIATIVES FOR 2007 LEGISLATIVE SESSION**

- Drennan A. Clark, J.D., Executive Director/Special Counsel

Mr. Clark said that the eighth initiative would take the Board out of the decision-making process concerning residents who request authority to moonlight during residency, and leave the decision to the directors of the residency programs.

Dr. Rodriguez moved that the Board approve the eighth initiative on the list. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark stated the ninth initiative would add to NRS 630.299 an additional non-disciplinary action option for minor violations, or potential minor violations, of the Medical Practice Act. In cases where an investigation determined there was a minor violation, or a potential minor violation, a letter of correction could be issued to a licensee directing the licensee to take some particular action. Some of the other states currently utilize these types of letters.

Discussion ensued concerning whether the letter of correction should be a public document, and whether it was necessary if the types of matters contemplated to be addressed by such a letter could be addressed with either a letter of concern or some other action already available to the Board and the Investigative Committees.

Mr. Clark said he would delete the ninth initiative from the list.

Mr. Clark explained that the tenth and eleventh initiatives were both requested by the Physician Assistant Advisory Committee. The tenth would amend the definition of "supervising physician" in NRS 630.025 by removing the term "who employs." Physician assistants are no longer always employed directly by the physicians who supervise them, but are often employed by health care organizations. The eleventh initiative would amend the definition of "provider of health care" in NRS 629.031 to include physician assistants.

Mrs. Kirch moved that the Board approve the tenth and eleventh initiatives. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark said the Board has been receiving a number of questions, particularly from the University of Nevada Medical School, concerning whether athletic team physicians from out of state can treat that team's athletes when in Nevada. The twelfth initiative would add to Chapter 630 a provision which would allow a physician licensed to practice in another state who has a contract with a sports team to treat that team's players or coaching staff while in Nevada, at a location other than at a healthcare facility in Nevada, without having to obtain a Nevada license.

Discussion ensued concerning whether the amendment is necessary and whether it would apply only to a "sports team," and what constitutes a "sports team."

Mr. Clark said he would delete the twelfth initiative from the list.

Mr. Clark explained that the thirteenth initiative would add a provision to the statutes authorizing the issuance of a restricted medical license to eminent, world-renowned, foreign-trained physicians to work at the University of Nevada Medical School or a medical center of excellence.

Dr. Baepler moved that the Board approve the thirteenth initiative. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark stated the fourteenth initiative would amend NRS 630.020 to define the use of lasers and injection of botox as the practice of medicine.

Dr. Lamerson stated the initiative should be worded more succinctly and include more specifics.

Mr. Clark said he would work with Dr. Lamerson to reword the initiative and will resubmit it to the Board members for their input and approval.

Mr. Clark said the fifteenth initiative would amend NRS 41.505 to include physician assistants in the list of those who can render emergency care and are provided immunity from civil liability when doing so.

Dr. Held moved that the Board approve the fifteenth initiative. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 10

**REVIEW OF AND DISCUSSION CONCERNING BOARD-SPONSORED TWO-HOUR COURSE ON MEDICAL ETHICS**

- Drennan A. Clark, J.D., Executive Director/Special Counsel; Robert J. Barnet, M.D., Medical Reviewer;  
Jerry C. Calvanese, M.D., Medical Reviewer

Dr. Calvanese informed the Board that he had given the course at Carson-Tahoe Hospital and at the V.A. Hospital in Reno, and had received overwhelming positive feedback. The course incorporated suggestions from several Board members and included lessons from complaints, ethics and a fair amount of risk management. Two hours of continuing medical education in ethics was approved by Carson-Tahoe's Education Committee, so all those who attended that session received two hours of ethics CME. He envisions the lecture will continue

to evolve, through input from Board members, and thinks it will really enhance the rapport and communication between the Board and physicians. He has applied to the University of Nevada Medical School for continuing medical education credits statewide, and anticipates receiving approval within the next several weeks. He also plans to offer materials at the poster session during the next annual meeting of the Federation of State Medical Boards.

Dr. Baepler said he thought the current program was a good one, but he would like to see it grow and evolve into two programs – one two-hour course that would discuss the Board, how it functions, how it interacts with its licensees and its procedures, and a separate two-hour course utilizing the Code of Ethics drafted by Dr. Barnet.

Dr. McBride stated he gave a brief presentation at a malpractice seminar regarding how to answer a letter from the Board, and it was well-received by the physicians, partly because there is still such mystery between what the Board does and what the physicians perceive it does.

Agenda Item 11

**ACKNOWLEDGEMENT THAT THE NEVADA STATE MEDICAL ASSOCIATION ADOPTED BOTH THE AMA CODE OF MEDICAL ETHICS AND THE BOARD-PROPOSED CODE OF PROFESSIONAL ETHICS AT ITS ANNUAL MEETING IN APRIL**

- Drennan A. Clark, J.D., Executive Director/Special Counsel

Mr. Clark stated that as a result of the activity the Board had taken with respect to considering a Code of Ethics for the medical profession, the Nevada State Medical Association adopted, at its April meeting, both the AMA Code of Professional Conduct and Dr. Barnet's proposed Code of Ethics, so those codes of medical ethics are now applicable to all physicians in the state, both medical doctors and doctors of osteopathy. The NSMA has also agreed to provide the Board with expert witnesses should a case arise where there is a question of bringing disrepute to the medical profession in violation of one of the codes of ethics. Mr. Clark thanked the Nevada State Medical Association for its actions in this regard.

Agenda Item 12

**REPORT ON STATUS OF ONLINE LICENSURE RENEWALS PROGRAM**

- Laurie L. Munson, Deputy Executive Director/Information Systems Administrator

Ms. Munson updated the Board concerning the online license renewals program. The contract with the vendor, System Automation, was approved by the state Board of Examiners, and staff and the vendor are moving forward with implementation of the project. She asked the Board whether the credit card transaction fee charged to the Board by the bank was to be assessed to the licensees who utilize the online renewals system or whether the current renewal fee would accommodate the charge, and it was the consensus of the Board not to charge the additional fee.

Agenda Item 13

**CONSIDERATION OF CREDENTIALING AGENCY REQUEST**

- Lynnette L. Daniels, Chief of Licensing

Ms. Daniels explained that the Board had received a request from Jonathan Law at Physician Licensing Service (PLS) that the agency be removed from the list of credentialing agencies from which the Board does not accept applications. Recently there was another incident with PLS where an employee of PLS represented himself to be the physician. She is requesting that the Board deny his request and keep PLS on the list of excluded agencies.

Dr. Baepler agreed the agency should remain on the list.

Dr. McBride moved that the Board maintain PLS' exclusion from acceptance of applications for licensure. Ms. Stoess seconded the motion, and is passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 14

**REQUEST TO INCREASE FEE FOR SPECIAL PURPOSE LICENSE**

- Lynnette L. Daniels, Chief of Licensing

Ms. Daniels requested an increase in the application fee for special purpose licenses to \$400, the same as unrestricted licenses, based upon the tremendous amount of work involved in processing those applications, which takes at least as much time as it takes to process an unrestricted license.

Mr. Clark stated the Board has statutory authority to charge up to \$400 for a special purpose license.

Mrs. Kirch moved to approve an increase in the application fee for special purpose licenses to \$400. Ms. Stoess seconded the motion, and is passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 20

**ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. EDWARD ZIMMERMAN, M.D., BME CASE NO. 05-11216-1**

- Bonnie S. Brand J.D., General Counsel

**OPEN SESSION**

The non-adjudicating Board members left the room.

Ms. Hegeduis summarized the facts of the case, which alleged that complications following surgery performed by Dr. Zimmerman could have been avoided had Dr. Zimmerman performed a less invasive procedure, and charged malpractice.

Mrs. Kirch moved to go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that the Board find Edward Zimmerman, M.D. not guilty of the charges alleged against him. Dr. McBride seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 24

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE**

Dr. Held moved to go into Closed Session to discuss the character and professional competence of applicants for licensure. Ms. Stoess seconded the motion, and it passed.

**CLOSED SESSION**

**24(j) Franco Lee, M.D.**

Franco Lee, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Lamerson questioned Dr. Lee concerning his anesthesia boards.

Dr. Lee explained that he took his anesthesia boards after his residency and passed the written portion but failed the oral portion. He will be taking the written portion again in July and will take the oral portion again next year.

Dr. Lamerson explained the circumstances under which the Board grants licensure by endorsement.

Discussion ensued concerning whether the written portion of the anesthesia board examination would meet the requirement of a major examination under the Board's statutes.

Dr. Lee told the Board he is currently in a fellowship at the University of Maryland which he will complete by June 30th. He explained why he had difficulty passing the oral portion of the anesthesia boards the first time.

Dr. Lamerson moved that the Board decline to exercise its discretion to grant licensure by endorsement to Franco Lee, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**RECESS**

Dr. Anwar recessed the meeting for lunch at 1:30 p.m.

**RECONVENE**

Dr. Anwar reconvened the meeting at 2:15 p.m.

Agenda Item 21

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. KURT BUZARD, M.D., BME CASE NO. 04-5431-1**

- Bonnie S. Brand J.D., General Counsel

**OPEN SESSION**

Mrs. Kirch moved to go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. McBride disclosed that Dr. Buzard had been his family's treating physician, and said he was recusing himself from all participation in the discussion and vote concerning the matter.

Ms. Stoess moved that the Board accept the settlement as presented. Dr. Rodriguez seconded the motion, and it passed, with Mrs. Kirch voting against the motion, Dr. McBride abstaining from the vote, and the Chair voting in favor of the motion.

Agenda Item 22

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. ALLEN WITKOWSKI, C.R.T., BME CASE NO. 05-24504-1**

- Lyn E. Beggs, J.D., Deputy General Counsel

**OPEN SESSION**

Dr. Lamerson moved to go into Closed Session. Dr. Held seconded the motion, and it passed.

Upon returning to Open Session, Dr. Baepler moved that the Board accept the settlement as presented. Ms. Stoess seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 24 *(CONTINUED)*

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE**

Dr. Rodriguez moved to go into Closed Session to discuss the character and professional competence of applicants for licensure. Dr. Held seconded the motion, and it passed.

**CLOSED SESSION**

**24(a) Alfred Batac, C.R.T.**

Dr. Rodriguez questioned Alfred Batac, C.R.T., who appeared before the Board to respond to questions concerning why he has not practiced respiratory therapy since 2003.

Mr. Batac told the Board he graduated from respiratory therapy school in 1999 and practiced respiratory therapy for two months in 2003, which is his only clinical experience since graduating from school. He explained why he had difficulty passing the respiratory therapy exam and said he is applying for a license in Nevada because it is the state nearest the state in which he currently lives that does not require a degree, in addition to the NBRC, for licensure. He told the Board he has kept current with respiratory therapy by spending time with old classmates and taking continuing education courses.

Mrs. Kirch moved that the Board return to Closed Session. Ms. Stoess seconded the motion, and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that the Board reject Alfred Batac, C.R.T.'s application for licensure, based upon an inadequate demonstration of clinical competency. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board return to Closed Session. Dr. Rodriguez seconded the motion, and it passed.

**24(b) Kathleen Strohmeyer, M.D.**

Mrs. Kirch questioned Kathleen Strohmeyer, M.D., who appeared before the Board to respond to questions concerning her affirmative response to Question 13 on her application for licensure.

Dr. Strohmeyer explained the circumstances surrounding her arrest in 2003 for driving under the influence.

Dr. McBride moved that the Board grant Kathleen Strohmeyer, M.D.'s application for licensure as a resident. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

**24(d) Roxanne Mistry, M.D.**

Roxanne Mistry, M.D. appeared via videoconference from Las Vegas.

Dr. Lamerson questioned Dr. Mistry, who appeared before the Board to respond to questions concerning the number of attempts it took her to pass all three steps of the USMLE.

Dr. Mistry explained why it took her so many attempts to pass the USMLE. She also told the Board she passed her in-service exams in pediatrics with average scores, and has applied to take the pediatric boards in October.

Dr. Anjum moved that the Board grant Roxanne Mistry, M.D.'s application for licensure. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session.

Upon returning to Open Session, Dr. Anwar clarified that Dr. Mistry was granted a license despite the fact that it took her more attempts to pass the USMLE than the current regulation allows because she was part of the group that held limited licenses when the new regulation was approved and was grandfathered in concerning the number of attempts and time allowed to pass the USMLE.

Dr. Held moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

#### **24(c) Vijay Maiya, M.D.**

Dr. Anwar questioned Vijay Maiya, who appeared before the Board to respond to questions concerning his medical training.

Dr. Maiya described his medical training. He also told the Board his in-service exam scores were average and that he will be taking the internal medicine boards in August.

Dr. Rodriguez moved that the Board grant Vijay Maiya, M.D.'s application for licensure. Ms. Stoess seconded the motion, and it passed, with Dr. Anjum, Dr. Baepler, Ms. Stoess, Dr. McBride, Dr. Rodriguez and the Chair voting in favor of the motion and Mrs. Kirch, Dr. Held and Dr. Lamerson voting against the motion.

Agenda Item 18

#### **ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. RAYMOND MCCANN, M.D., BME CASE NO. 05-12243-01**

- Bonnie S. Brand J.D., General Counsel

#### **OPEN SESSION**

Ms. Hegeduis summarized the facts of the case. The patient developed an infection following implantation of a "fem-pop" graft in his left groin area. The area was incised and drained, which left an open wound and an exposed graft. Dr. McCann was called for a surgical consult and surgery was performed on the graft. In addition, Dr. McCann repaired a hernia in the abdomen at the same time. A month later the patient was readmitted to the hospital with complications from the surgery, with the areas around both the abdomen and the graft infected and the graft occluded. The abdominal wound was drained and the graft removed by another physician. The complaint alleges malpractice.

The non-adjudicating Board members left the room.

Dr. Baepler moved to go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. Baepler moved that the Board close the case. Dr. Rodriguez seconded the motion. No vote was taken on the motion.

Dr. Rodriguez moved that the Board find Raymond McCann, M.D. not guilty of the charges alleged against him. Dr. Held seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 19

**ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. ASHLEY SIKAND, M.D., BME CASE NO. 05-10792-1**

- Lyn E. Beggs, J.D., Deputy General Counsel

**OPEN SESSION**

The non-adjudicating Board members left the room.

Ms. Hegeduis summarized the facts of the case. The patient had been diagnosed with otitis by his primary care physician and was referred to a specialist. He had seen two other physicians before seeing Dr. Sikand. Dr. Sikand saw the patient to address findings of mastoiditis discovered through a CT Scan, and surgery was scheduled. Some of the patient's symptoms unrelated to the condition Dr. Sikand was treating worsened. Dr. Sikand canceled the surgery and referred the patient back to his primary care physician. There is little, if any, legible documentation in the records to indicate what Dr. Sikand ordered in treatment or other actions he took after canceling the surgery. The patient did not return to Dr. Sikand, but eventually saw another specialist, who performed a tympanostomy tube insertion. Count I of the complaint alleges Dr. Sikand's care fell below the standard of care, and he therefore committed malpractice. Count II alleges a lack of and/or illegible medical records.

Dr. Baepler moved to go into Closed Session. Dr. Held seconded the motion, and it passed.

Upon returning to Open Session, Dr. Held moved that the Board find Ashley Sikand, M.D. not guilty of Count I of the complaint against him. Dr. Lamerson seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Held moved that the Board find Ashley Sikand, M.D. not guilty of Count II of the complaint against him. Dr. Rodriguez seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Discussion ensued concerning whether a letter of concern could be sent to Dr. Sikand concerning his record-keeping. Ms. Hegeduis stated she would include language in the order that would put Dr. Sikand on notice that although the Board found his record-keeping did not rise to the level of a violation of the Medical Practice Act, it was on the verge, and it was an area of concern to the Board.

Agenda Item 24 **(CONTINUED)**

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE**

Dr. Anjum moved to go into Closed Session to discuss the character and professional competence of applicants for licensure. Dr. Held seconded the motion, and it passed.

## **CLOSED SESSION**

### **24(e) Uma Natarajan, M.D.**

Dr. Anjum questioned Uma Natarajan, M.D., who appeared before the Board to respond to questions concerning why it took her so much time to pass the USMLE.

Dr. Natarajan explained the extenuating personal circumstances which caused the delay in her passing the third step of the USMLE.

Dr. Anjum moved that the Board grant Uma Natarajan, M.D.'s application for licensure. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board return to Closed Session. Dr. McBride seconded the motion, and it passed.

### **24(f) Donald Hansen, M.D.**

Dr. Held questioned Donald Hansen, M.D., who appeared before the Board to respond to questions concerning the fact that he had not completed 36 months progressive post-graduate training.

Dr. Hansen explained why he chose to attend medical school in Argentina and described his current practice.

Dr. Held moved that the Board decline to exercise its discretion to grant licensure by endorsement to Donald Hansen, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board grant an unrestricted license to Donald Hansen, M.D., contingent upon maintaining his board certification in emergency medicine. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved that the Board return to Closed Session. Ms. Stoess seconded the motion, and it passed.

### **24(g) Stephen Tann, M.D.**

Ms. Stoess questioned Stephen Tann, M.D., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 8 and 19 on his application for licensure.

Dr. Tann described his practice at the time he self-reported for cocaine addiction, and the circumstances surrounding his addiction. He told the Board he had been offered a position with Reno Heart Physicians, practicing at Carson-Tahoe Hospital, if he were granted a license, and it would begin with a proctorship.

Ms. Stoess moved that the Board grant Stephen Tann, M.D.'s application for licensure, contingent upon his remaining in compliance with, and completion of, his contract with the diversion program. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Baepler moved that the Board return to Closed Session. Dr. McBride seconded the motion, and it passed.

**24(h) Leonard Caputo, M.D.**

Dr. Rodriguez questioned Leonard Caputo, M.D., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 12 and 31 on his application for licensure.

Dr. Caputo described the circumstances surrounding the numerous malpractice claims against him.

Dr. Rodriguez moved that the Board grant Leonard Caputo, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved that the Board return to Closed Session. Dr. Held seconded the motion, and it passed.

**24(i) James Cuellar, M.D.**

James Cuellar, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Baepler told Dr. Cuellar that he does not meet the minimum requirements for licensure in Nevada, and explained the circumstances under which the Board grants licensure by endorsement.

Discussion ensued concerning whether the written portion of the anesthesia board examination would meet the requirement of a major examination under the Board's statutes.

Dr. Baepler moved that the Board decline to exercise its discretion to grant licensure by endorsement to James Cuellar, M.D. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved that the Board return to Closed Session. Dr. Lamerson seconded the motion, and it passed.

**24(k) Dominador Falguera, M.D.**

Dominador Falguera, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Held questioned Dr. Falguera regarding the fact that he has not passed a major examination in the last ten years, and concerning his affirmative response to Question 12 on his application for licensure.

Dr. Falguera told the Board he had practiced as an emergency room physician at Cape May Courthouse, New Jersey from 1988 to 1999, and described the circumstances surrounding the malpractice claims against him. He said he plans to take the emergency medicine boards and wants to practice in Pahrump.

Dr. Held explained the circumstances under which the Board grants licensure by endorsement.

Dr. Held moved that the Board decline to exercise its discretion to grant licensure by endorsement to Dominador Falguera, M.D. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved that the Board return to Closed Session. Dr. Rodriguez seconded the motion, and it passed.

**24(l) Ati Hakimi, M.D.**

Dr. Anwar questioned Ati Hakimi, M.D., who appeared before the Board to respond to questions concerning her negative response to Question 19 on her application for licensure.

Dr. Hakimi explained why she responded in the negative to Question 19 on her application when she had, in fact, been placed on probation twice during her residency at Northwestern University, and explained the circumstances surrounding her being placed on probation by the University.

Dr. Held moved that the Board return to Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. McBride moved that the Board deny Ati Hakimi, M.D.'s application for licensure, based upon her deceptive response to Question 19 on her application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. McBride moved to return to Closed Session for the same purposes stated before. Dr. Lamerson seconded the motion, and it passed.

**24(m) Slobodan Jazarevic, M.D.**

Dr. Anjum questioned Slobodan Jazarevic, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 and his negative response to Question 31 on his application for licensure.

Dr. Jazarevic described his training in the United States. He explained the circumstances surrounding the single claim of malpractice against him and told the Board he responded in the negative to Question 31 because he was unaware the Florida Board had investigated him since he had never been notified of the investigation by that Board.

Dr. Anjum moved that the Board grant Slobodan Jazarevic, M.D.'s application for licensure. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Baepler moved, pursuant to discussion earlier in the day, that the Board assign applications for licensure by endorsement to the License Application and Malpractice Review Committee for review and recommendations to the Board regarding licensure. Dr. Rodriguez seconded the motion, and it passed, with Mrs. Kirch voting against the motion and the Chair voting in favor of the motion.

Agenda Item 3 **(CONTINUED)**

**PERSONNEL**

**Closed Session**

- Annual Review and Discussion of Professional Competency of Staff
- Sohail U. Anjum, M.D., Vice-President and Chairman of the Internal Affairs Committee;  
Drennan A. Clark, J.D., Executive Director/Special Counsel

**Open Session**

- Set Staff Compensation
- Sohail U. Anjum, M.D., Vice-President and Chairman of the Internal Affairs Committee;  
Drennan A. Clark, J.D., Executive Director/Special Counsel

- **Annual Review and Discussion of Professional Competency of Staff**
- **Set Staff Compensation**

Mrs. Kirch moved to go into Closed Session to discuss the professional competency of Board staff. Dr. Rodriguez seconded the motion, and it passed.

Upon returning to Open Session, Dr. McBride moved that the Board return to Closed Session to discuss staff compensation. Dr. Anjum seconded the motion, and it passed.

Upon returning to Open Session, Dr. Anjum moved that the Board approve the recommendations for staff compensation, as amended by the Internal Affairs Committee. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 15 **(CONTINUED)**

**REPORTS**

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Executive Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Steven E. Kessinger, C.R.T., Advisory Committee Member
  - Consideration of Request for Approval of Appointment of Replacement Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations
  - Status of Investigative Caseload
- Nevada State Medical Association Liaison Report - Cindy Lamerson, M.D., Board Member; Lawrence P. Matheis, Executive Director, Nevada State Medical Association
- Clark County Medical Society Liaison Report - Benjamin J. Rodriguez, M.D., Board Member; Weldon Havins, M.D., J.D., CEO and Special Counsel, Clark County Medical Society
- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member; Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
  - Status of Finances
- Federation of State Medical Boards of the United States, Inc.'s 2006 Annual Meeting, April 20-22, 2006, Boston, MA - Javaid Anwar, M.D., President; Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer; Jean Stoess, M.A., Board Member; S. Daniel McBride, M.D., Board Member; Benjamin J. Rodriguez, M.D., Board Member

**- Physician Assistant Advisory Committee**

Janet Wheble, P.A.-C, stated the items the Advisory Committee was interested in had already been discussed by the Board earlier in the meeting, so she didn't need to go over them again, but the Committee wanted to thank the Board for its support and input concerning the proposed changes to the statutes they had requested throughout the year.

**Investigative Committees – Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Vice President, Chairperson, Investigative Committee B**

**- Consideration of Cases Recommended for Closure by the Committees**

Dr. Baepler reported that Investigative Committee A considered 102 cases, authorized the filing of formal complaints in 5 cases, issued 9 letters of concern, referred 8 cases back to investigative staff for further investigation or follow-up and recommended closure of 80 cases.

Dr. Anjum reported that Investigative Committee B considered 114 cases, authorized the filing of formal complaints in 6 cases, sent 3 cases out for peer review, requested an appearance in 2 cases, issued 10 letters of concern, referred 5 cases back to investigative staff for further investigation or follow-up and recommended closure of 88 cases.

## **- Investigations Division**

### **- Status of Investigative Caseload**

Mr. Cooper stated that after closing the 168 cases recommended for closure by the Investigative Committees there will be 550 to 600 open cases, and there are approximately 190 civil court cases that have not yet been opened and assigned. The current caseload is approximately 90 cases per investigator. Peer reviews are the largest expenditure and there are currently 54 peer reviews in the field and 35 pending.

Mr. Cooper advised that to date, the Board has received 4,734 responses from physicians to the survey regarding in-office surgeries using various levels of sedation, 4,514 who indicated they had not performed any and 220 who indicated they had. Of the 220 affirmative responses, there had been 7,184 deep sedations, 4,355 uses of general anesthesia and 15 adverse events. Five hundred fifty-one forms had been returned for bad address. Staff has found 60 of those physicians and was working to find the remainder.

Mr. Cooper stated the compliance program has collected \$46,420.95 since the program began, \$9,054.75 in the last three months. There is a current balance owed to the Board in fines and administrative costs of \$204,000. Two cases had been turned over to the Attorney General's Office for assistance with collection and the Investigative Committees have re-issued orders in two cases directing the licensees to come into compliance.

### **- Clark County Medical Society Liaison Report**

Weldon Havins, M.D., J.D., CEO and Special Counsel of the Clark County Medical Society, stated he had no significant issues to report, but that Dr. Rodriguez was an excellent representative for the Board. He had attended all their meetings, and they are enjoying excellent communication with the Board through Dr. Rodriguez.

Dr. Rodriguez stated he participated in the mini-internship program sponsored by the Clark County Medical Society, whereby public officials come and spend a day with a doctor to help enlighten them as to a doctor's routine. He was also asked to prepare a response for the Clark County Medical Society newsletter concerning the negative press the Board had received for its apparent laxity in discipline, as it was ranked 47 out of 50 in that area.

Dr. McBride stated he participated in the mini-internship program with a staffer from Senator Ensign's office and one of the hospitals would not allow his intern to accompany him. He would like to see the Board make a statement encouraging participation by all facilities in the state because it is a good program and it is a good way for the public and political representatives to learn what physicians do.

Mr. Clark stated that all of the Board's legal staff and Investigators have now participated in the mini-internship program sponsored by the Washoe County Medical Society.

### **- Washoe County Medical Society Liaison Report**

Dr. Lamerson reported the only issue discussed recently was the code of ethics, which Mr. Clark had addressed earlier in the meeting.

**- Secretary-Treasurer  
- Status of Finances**

Dr. Baepler stated the Board's budget is in good shape, although new physician application fees have been a little light so far this year. The Board had licensed 387 new physicians between July 1, 2005 and May 18, 2006.

**- Federation of State Medical Boards of the United States, Inc.'s 2006 Annual Meeting,  
April 20-22, 2006, Boston, MA**

Dr. Anwar stated the Board had a large contingent at the meeting, and he thought it was interesting. There are a couple of topics that were top-most on their agenda, which have been top-most on their agenda for a while. One is the idea of the Federation establishing a central clearinghouse for education and training documentation, which would be a good thing if it were to come to pass, but there is no telling if or when that will happen.

**Investigative Committees – Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer,  
Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Vice President, Chairperson,  
Investigative Committee (CONTINUED)**

**- Consideration of Cases Recommended for Closure by the Committees (CONTINUED)**

Dr. Held moved to approve for closure the cases recommended by the Investigative Committees. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 16

**EXECUTIVE STAFF REPORTS**

- Consideration of Approval of 2005 Board Annual Report
- Consideration of Request for Staff Attendance at Educational Meetings
- Informational Items
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Consideration of Approval of 2005 Board Annual Report**

Mr. Clark requested approval of the Board's 2005 Annual Report.

Dr. Lamerson moved to approve the Board's 2005 Annual Report. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Consideration of Request for Staff Attendance at Educational Meetings**

Mr. Clark stated the only item of moment on the list of educational meetings provided to Board members for review and approval was the International Association of Medical Regulatory Authorities meeting in Wellington, New Zealand. Traditionally, the Board had sent a Board member or Board members, the Executive Director and the Deputy Executive Director to these meetings; however, no one from the Board attended the conference in Dublin two years

ago. He recommended attendance at this meeting by any Board member who wanted to go, and suggested that Ms. Munson go in his place, since he would be unable to attend, and that one other staff member attend as well.

Discussion ensued concerning the need to review the agenda for the meeting, as one was not yet available, the estimated costs to send someone to the meeting, and whether the Board's budget would accommodate the expense.

#### Agenda Item 17

**LEGAL REPORTS** - Bonnie S. Brand, J.D., General Counsel  
Edward O. Cousineau, J.D., Deputy General Counsel  
Lyn E. Beggs, J.D., Deputy General Counsel  
Dianna Hegeduis, J.D., Chief Deputy Attorney General

- Board Litigation Status

#### - **Board Litigation Status**

Ms. Brand reported there were three cases in which hearings were held that were awaiting synopsis by the Hearing Officer, 33 cases pending hearings, 19 letters of concern had been sent out in the last quarter, there were 17 cases pending the filing of formal complaints, and 48 cases in the Legal Department requiring Investigative Committee summaries. The Board won the Mower case in the Supreme Court and will be able to collect the costs of prosecution, which is approximately \$46,000.

Ms. Hegeduis reported that in the Giarrusso case, the depositions of Dr. Giarrusso and her now-husband had been noticed for July, and both parties were in the process of discovery. She had now received three files from the compliance program to reduce to judgment for collection and was working on those.

#### Agenda Item 23

#### **LICENSURE RATIFICATION**

- Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status  
Approved Since the March 17 & 18, 2006 Board Meeting

Mrs. Kirch moved that the Board ratify the licenses issued and reinstatements of licensure and changes of licensure status approved since the March 17 & 18, 2006 Board meeting. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 16 (***CONTINUED***)

#### **EXECUTIVE STAFF REPORTS**

- Consideration of Approval of 2005 Board Annual Report  
- Consideration of Request for Staff Attendance at Educational Meetings  
- Informational Items  
- Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Consideration of Request for Staff Attendance at Educational Meetings (CONTINUED)**

Dr. Baepler moved to approve the requests for training as outlined in the agenda book, with the exception of the IAMRA conference in New Zealand. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**RECESS**

Dr. Anjum moved to recess the meeting for the evening. Mrs. Kirch seconded the motion, and it passed. Dr. Anwar recessed the meeting at 7:05 p.m.

**SATURDAY, JUNE 10, 2006**

***Board Members Present***

Javaid Anwar, M.D., President  
Sohail U. Anjum, M.D., Vice President  
Marlene J. Kirch  
Charles N. Held, M.D.  
Jean Stoess, M.A.  
Cindy Lamerson, M.D.  
S. Daniel McBride, M.D.  
Benjamin J. Rodriguez, M.D.

***Board Members Absent***

Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer

***Staff Present***

Drennan A. Clark, J.D., Executive Director/Special Counsel  
Laurie L. Munson, Deputy Executive Director/  
Information Systems Administrator/Chief of Administration  
Bonnie S. Brand, J.D., General Counsel  
Lyn E. Beggs, J.D., Deputy General Counsel  
Jerry C. Calvanese, M.D., Medical Reviewer  
Lynnette L. Daniels, Chief of Licensing  
Carolyn H. Castleman, Deputy Chief of Licensing  
Trent S. Hiett, Investigator (in Las Vegas)

***Also Present***

Dianna Hegeduis, J.D., Chief Deputy Attorney General

**RECONVENE**

Dr. Anwar reconvened the meeting at 8:30 a.m.

Ms. Hegeduis took roll call, and all Board members, with the exception of Dr. Baepler, were present.

Agenda Item 24 ***(CONTINUED)***

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS  
FOR LICENSURE**

Dr. McBride moved to go into Closed Session to discuss the character and professional competence of applicants for licensure. Dr. Held seconded the motion, and it passed.

**CLOSED SESSION**

**24(o) Geoffrey Ames, M.D.**

Dr. McBride questioned Geoffrey Ames, M.D., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 8 and 11 on his application for a change in licensure status from inactive to active.

Dr. Ames explained the circumstances surrounding the disciplinary action taken against him by the Washington State Department of Health for conducting unnecessary tests and using a device that was not approved by the FDA for diagnosis. He stated that if the Board grants him a change in status to active, his scope of practice will be general practice with minor dermatology. He described his training in dermatology. He said he notified the Board of the investigation by the Washington Board at the time he renewed his license.

Dr. McBride moved that the Board return to Closed Session. Mrs. Kirch seconded the motion, and it passed.

Upon returning to Open Session, Dr. McBride moved that the Board deny Geoffrey Ames, M.D.'s application for change of status from inactive to active, based upon the modification of his license in another state. Mrs. Kirch seconded the motion.

Dr. McBride explained to Dr. Ames that he had the option to withdraw his application at this time, pending resolution of his court action in Washington, and resubmit an application for change of status at a later date. If he chose not to take that option, the Board may vote to take the action that was on the table in the form of a motion.

Dr. Ames asked why the Board was afraid of the machines he uses.

Dr. Anjum told Dr. Ames that was not the issue; the issue was that the Medical Board in Washington took action against his license and he did not report it to the Nevada Board in a timely manner.

Dr. Ames withdrew his application.

Dr. McBride withdrew his motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Ms. Stoess seconded the motion, and it passed.

#### **24(t) Daniel Taheri, M.D.**

Dr. Rodriguez questioned Daniel Taheri, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his application for licensure.

Dr. Taheri described his current practice and his use of lasers in his practice. He explained the circumstances surrounding the malpractice claims against him, which were related to the use of lasers. Most of the laser and IPL procedures performed in his office are performed by a registered nurse trained by the laser company. He does not plan to use lasers if he comes to Nevada, as he would rather practice general dermatology and skin cancer care.

Dr. Rodriguez advised Dr. Taheri that if he does decide to use lasers or IPL machines again, the Board would admonish him to strictly supervise his nurses if they perform the procedures.

Dr. Rodriguez moved that the Board grant Daniel Taheri, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. McBride moved to return to Closed Session for the same purposes stated before. Dr. Rodriguez seconded the motion, and it passed.

**24(q) Roberto Martinez, M.D.**

Roberto Martinez, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Martinez lived in Louisiana at the time of Hurricane Katrina and described what he had been doing since. He had a job offer in Las Vegas and planned to practice there if granted a license.

Dr. McBride explained the circumstances under which the Board grants licensure by endorsement.

Dr. McBride moved that the Board decline to exercise its discretion to grant licensure by endorsement to Roberto Martinez, M.D. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. McBride moved that the Board grant an unrestricted license to Roberto Martinez, M.D, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Rodriguez seconded the motion, and it passed.

**24(r) Dietrich Von Feldmann, M.D.**

Dietrich Von Feldmann, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Held explained the circumstances under which the Board grants licensure by endorsement, and stated that although there was no question regarding his competence and excellence in teaching, he did not qualify for licensure by endorsement.

Dr. Held moved that the Board decline to exercise its discretion to grant licensure by endorsement to Dietrich Von Feldmann, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board grant an unrestricted license to Dietrich Von Feldmann, M.D, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. McBride moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

**24(s) William Werschler, M.D.**

William Werschler, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Lamerson explained the circumstances under which the Board grants licensure by endorsement, and questioned Dr. Werschler concerning his affirmative response to Question 12 on his application for licensure.

Dr. Werschler explained the circumstances surrounding the single case of malpractice against him.

Dr. Lamerson moved that the Board decline to exercise its discretion to grant licensure by endorsement to William Werschler, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Lamerson moved that the Board grant an unrestricted license to William Werschler, M.D, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. McBride seconded the motion, and it passed.

**24(y) Alvaro Galindo, M.D.**

Dr. Anjum questioned Alvaro Galindo, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his application for licensure.

Dr. Galindo described the circumstances surrounding the malpractice claims against him.

Dr. McBride moved that the Board grant Alvaro Galindo, M.D.'s application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved that the Board return to Closed Session. Dr. Held seconded the motion.

Dr. McBride stated that he had to leave the meeting, and wanted to leave his proxy for the elections and vote for re-election of the present slate of officers.

**24(w) Hung Cheung, M.D.**

Dr. Anjum questioned Hung Cheung, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his application for licensure.

Dr. Cheung described the circumstances surrounding the malpractice claims against him.

Dr. Anjum moved that the Board grant Hung Cheung, M.D.'s application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved that the Board return to Closed Session. Dr. McBride seconded the motion, and it passed.

**24(u) Adam Rovit, M.D.**

Adam Rovit, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Held questioned Dr. Rovit about his subspecialty of pediatric ophthalmology.

Dr. Rovit explained there are fellowship programs but no certification in his subspecialty. He told the Board he would be practicing with a comprehensive ophthalmology group in Las Vegas.

Dr. Held explained the circumstances under which the Board grants licensure by endorsement.

Dr. Held moved that the Board decline to exercise its discretion to grant licensure by endorsement to Adam Rovit, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board grant an unrestricted license to Adam Rovit, M.D, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

**24(v) Andrew Cash, M.D.**

Andrew Cash, M.D. appeared before the Board on his application for licensure by endorsement.

Mrs. Kirch questioned Dr. Cash concerning his affirmative response to Question 12 on his application for licensure.

Dr. Cash explained the circumstances surrounding the single claim of malpractice against him. He stated he had passed the written portion of the orthopedic boards and planned to take the oral portion in two years. He passed his in-service examinations with above-average scores. He explained why it took him so long to pass all three steps of the USMLE, which was due, in part to taking a year off after his third year of residency to do head and neck research.

Mrs. Kirch moved that the Board return to Closed Session. Dr. Lamerson seconded the motion, and it passed.

Upon returning to Open Session, Mrs. Kirch moved that the Board decline to exercise its discretion to grant licensure by endorsement to Andrew Cash, M.D. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board grant an unrestricted license to Andrew Cash, M.D, subject to successful passage of a peer review, because the Board has identified an exceptional circumstance that allows it to do so. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Ms. Stoess seconded the motion, and it passed.

#### **24(x) Lenore Kakita, M.D.**

Lenore Kakita, M.D. appeared before the Board on her application for licensure by endorsement.

Dr. Lamerson explained the circumstances under which the Board grants licensure by endorsement, and stated that although Dr. Kakita was a good candidate, she did not meet the qualifications for licensure by endorsement.

Dr. Kakita explained why she wanted to practice in Nevada.

Dr. Lamerson moved that the Board decline to exercise its discretion to grant licensure by endorsement to Lenore Kakita, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Lamerson moved that the Board grant an unrestricted license to Lenore Kakita, M.D, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### **Agenda Item 15 (CONTINUED)**

##### **REPORTS**

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Executive Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Steven E. Kessinger, C.R.T., Advisory Committee Member
  - Consideration of Request for Approval of Appointment of Replacement Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A
  - Sohail U. Anjum, M.D., Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations
  - Status of Investigative Caseload
- Nevada State Medical Association Liaison Report - Cindy Lamerson, M.D., Board Member; Lawrence P. Matheis, Executive Director, Nevada State Medical Association
- Clark County Medical Society Liaison Report - Benjamin J. Rodriguez, M.D., Board Member; Weldon Havins, M.D., J.D., CEO and Special Counsel, Clark County Medical Society

- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member; Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
  - Status of Finances
- Federation of State Medical Boards of the United States, Inc.'s 2006 Annual Meeting, April 20-22, 2006, Boston, MA - Javaid Anwar, M.D., President; Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer; Jean Stoess, M.A., Board Member; S. Daniel McBride, M.D., Board Member; Benjamin J. Rodriguez, M.D., Board Member

#### **- Nevada State Medical Association Liaison Report**

Scott M. Craigie stated he has been the contract lobbyist for the Nevada State Medical Association since 2001 when they first began the effort of tort reform. They appreciate the fact that the Board acknowledged adoption by the NSMA of the codes of ethics. He said it is important to note that acceptance of the two codes was done by the base governing body of the NSMA at the state convention. The NSMA leadership will give full consideration to all of the Board's legislative proposals and looks forward to working together as much as possible in the upcoming legislative session. With respect to delegation of refractive surgery to physician assistants, they had received many comments from their physician members and Larry Matheis' comment was that delegation is appropriate as long as the physician supervises and is responsible for the outcome. They also appreciate the Board's efforts in providing the course in medical ethics. He thinks the Board has the toughest regulatory job of any organizational group in the administration and he is impressed with and appreciates the efforts of the Board.

Agenda Item 24 **(CONTINUED)**

#### **APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE**

Mrs. Kirch moved to go into Closed Session to discuss the character and professional competence of applicants for licensure. Ms. Stoess seconded the motion, and it passed.

#### **CLOSED SESSION**

#### **24(z) Jatinder Somal, M.D.**

Ms. Stoess questioned Jatinder Somal, M.D. concerning his affirmative responses to Questions 13 and 31 on his application for licensure.

Dr. Somal explained the circumstances surrounding his arrest in 2001 for driving under the influence.

Ms. Stoess moved that the Board grant Jatinder Somal, M.D.'s application for licensure, contingent upon his continued participation in, and completion of, the diversion program. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved that the Board return to Closed Session. Dr. Held seconded the motion, and it passed.

**24(aa) Michael Shevach, M.D.**

Michael Shevach, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Held questioned Dr. Shevach concerning his affirmative response to Question 31 on his application for licensure.

Dr. Shevach explained the circumstances surrounding the investigation of him by the Florida Department of Health.

Dr. Held explained the circumstances under which the Board grants licensure by endorsement.

Dr. Held moved that the Board decline to exercise its discretion to grant licensure by endorsement to Michael Shevach, M.D. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board grant an unrestricted license to Michael Shevach, M.D, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved that the Board return to Closed Session. Dr. Anjum seconded the motion, and it passed.

**24(cc) Marc Thomas, M.D.**

Marc Thomas, M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Held explained the circumstances under which the Board grants licensure by endorsement.

Dr. Held moved that the Board decline to exercise its discretion to grant licensure by endorsement to Marc Thomas, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board grant an unrestricted license to Marc Thomas, M.D, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 26

**ELECTION OF OFFICERS AND APPOINTMENT OF COMMITTEE MEMBERS**

Dr. Anwar announced that nominations were open for election of officers of the Board.

Ms. Stoess nominated Dr. Anwar for another term as President, Dr. Anjum for another term as Vice President and Dr. Baepler for another term as Secretary-Treasurer. Mrs. Kirch seconded the nominations, and they were approved unanimously, with all Board members voting in favor of the nominations.

Dr. Anwar requested that those who are currently serving on the various committees of the Board continue to do so.

Agenda Item 25

**MATTERS FOR FUTURE AGENDA**

Mr. Clark stated the following matters will be on the Agenda for the September 2006 Board meeting: consideration and approval of the 2005-2006 audit of the Board by Solari & Sturmer and consideration of adoption of those amendments to Nevada Administrative Code Chapter 630 the Board authorized to go forward at this meeting -- to require licensees and applicants to sign all notifications, applications and communications they have with the Board, to authorize physician assistants to act under the supervision of any physician at the scene of an accident or a natural or manmade disaster when rendering emergency care when they cannot find their supervising physician, and to provide a procedure for licensure of eminent physicians.

**24(bb) Arnold Klein, M.D.**

Arnold Klein, M.D. did not appear before the Board on his application for licensure by endorsement [as he had been injured and arrived after the meeting had concluded].

Dr. Anjum moved that the Board exercise its discretion to grant licensure by endorsement to Arnold Klein, M.D. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 27

**PUBLIC COMMENT**

The Board received no public comment.

**ADJOURNMENT**

Dr. Anjum moved to adjourn the meeting. Mrs. Kirch seconded the motion, and it passed. Dr. Anwar adjourned the meeting at 12:25 p.m.